

§ 177.05

body of water when it is determined, under the provisions of §177.07(g), that an unsafe condition exists.

(b) Each order issued by a Coast Guard District Commander under the provisions of paragraph (a) of this section will contain:

(1) Notice that the person upon whom the order is served has the right under the Administrative Procedure Act (5 U.S.C. 553(e)), to petition for reconsideration and repeal of the order;

(2) Full title and address of the Coast Guard District Commander to whom the petition is to be submitted; and

(3) Notice that the petition should contain:

(i) The text or substance of the order which the petitioner seeks to have reconsidered and repealed;

(ii) A statement of the action sought by the petitioner;

(iii) Whatever arguments or data that are available to the petitioner to support the action sought; and

(iv) An advisement that if the petitioner desires reconsideration and repeal of the rule before a specific date, the petition should so state and give reasons why action by that date is necessary.

(c) If a Coast Guard District Commander determines that a petition submitted under the provisions of paragraph (b) of this section contains adequate justification, the District Commander will initiate prompt action to repeal the order. If the District Commander determines that repeal of the order is not justified, the District Commander will issue prompt written notice of denial to the petitioner.

[CGD 95-057, 60 FR 34150, June 30, 1995]

§ 177.05 Action to correct an especially hazardous condition.

An operator of a boat who is directed by a Coast Guard Boarding Officer to take immediate and reasonable steps necessary for the safety of those aboard the vessel, under section 4308 of Title 46, United States Code, shall follow the direction of the Coast Guard Boarding Officer, which may include direction to:

(a) Correct the especially hazardous condition immediately;

(b) Proceed to a mooring, dock, or anchorage; or

33 CFR Ch. I (7-1-12 Edition)

(c) Suspend further use of the boat until the especially hazardous condition is corrected.

[CGD 72-71R, 37 FR 13347, July 7, 1972, as amended by CDG 84-099, 52 FR 47534, Dec. 14, 1987]

§ 177.07 Other unsafe conditions.

For the purpose of section 4308 of Title 46, United States Code, "other unsafe condition" means a boat:

(a) Does not display between sunset and sunrise the navigation lights prescribed by the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) or, when in use upon the inland waters of the United States, the Inland Navigational Rules Act of 1980 (Pub. L. 96-591), 94 Stat. 3415, 33 U.S.C. 2001, *et seq.*;

(b) That is operated by an individual who is apparently under the influence of alcohol or a dangerous drug, as defined in §95.020 of this chapter, to the extent that, in the boarding officer's discretion, the continued operation of the vessel would create an unsafe condition.

(c) Has a fuel leakage from either the fuel system or engine, or has an accumulation of fuel in the bilges.

(d) Does not meet the applicable ventilation requirements for tanks and engine spaces prescribed by 46 CFR 25.40 (which applies to certain boats built before August 1, 1980), or Subpart K Ventilation, of 33 CFR Part 183 (which applies to boats built after July 31, 1980);

(e) Does not meet the requirements for backfire flame control prescribed by 46 CFR 25.35; or

(f) Is operated in a Regulated Boating Area as described in §177.08 when:

(1) The wave height within the Regulated Boating Area is 4 feet or greater; or

(2) The wave height within the Regulated Boating Area is equal to or greater than the wave height determined by the formula

$$L/10 + F = W$$

where:

L=Overall length of a boat measured in feet in a straight horizontal line along and parallel with the centerline between the intersections of this line with the vertical planes of the stem and stern profiles excluding deckhouses and equipment.